

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 5th day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO. 3250 OF 1996

BETWEEN :

M/s. Micro Nova Pharamceuticals  
Pvt., Ltd., a Registered Private  
Limited Company, under the  
Companies Act, 1956, having its  
Registered Office at III Floor,  
Queens Corner Apartment, Queens Road,  
Bangalore - 560 001.  
Represented by its Director,  
Mrs. MONICA SURANA

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.. PETITIONER

(Sri D. Prabhakar, Advocate)

A N D :

1. The Regional Commissioner  
for Provident Fund in Karnataka,  
No. 13, Rajaram Mohan Roy Road,  
Bangalore - 560 025
2. The Assistant Provident Fund  
Commissioner,  
No. 75/1, Hulkul Complex,  
Lalbagh Road,  
Bangalore - 560 027

.. RESPONDENTS

(Sri Udayashankar for  
Sri Harikrishna Holla, Advocate)

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Writ Petition filed under Articles 226 & 227 of the Constitution of India, praying to; ISSUE a writ of certiorari or order or direction, quashing the order passed by the first respondent under Section 7A of the Act in Code No. KN/16034, vide ANNEXURE 'A'; ISSUE a writ of Mandamus or order or direction to the second respondent not to further proceed to recover the arrears of provident fund on the orders of the first respondent, vide Annexure - 'A', etc.

This Writ Petition coming on for Hearing, this day, the Court made the following :

O\_R\_D\_E\_R

M/s. Micro Noava Pharmaceuticals Pvt. Ltd., No. 303, 3rd Floor, Queens Corner Apartments, Queens Road, Bangalore is a manufacturing unit and has its own employees. According to them, it was established on 28-12-1990 and is entitled for infancy period of 3 years expiring with 27-12-1993. During the infancy period, they voluntarily applied for being covered by the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. When the matter stood thus, the authorities took the stand that

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that the establishment is a part and branch of M/s. Micro Labs Limited, No. 7/10, Kumara Krupa Road, Bangalore and there is functional integrality between the two units and they are one and the same. As such, it took the view that the petitioner-Company is not entitled to the infancy period protection. The petitioner appeared before the authorities with all documents and contested the claim of the Department. Overruling the objections, Annexure - A order was passed under Section - 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act declaring that the petitioner-Company herein is a part of M/s Micro Labs Limited, No. 7/10, Kumara Krupa Road, Bangalore, and the two units to be taken as one with its employees and as such; it was held that the petitioner is not entitled to any infancy protection. This order has been challenged by the petitioner in these proceedings.

2. I have heard Mr. D. Prabhakar, learned counsel for the petitioner, as also Mr. Udayashankar appearing

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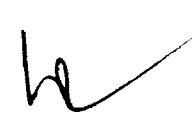
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appearing on behalf of Mr. Harikrishna Holla, learned counsel for the respondents.

3. Before going into detail the contention urged by the learned counsel for the petitioner, I feel Annexure-1 order cannot be sustained on a short ground. By the impugned order, the authorities have declared that M/s. Micro Nova Pharmaceuticals, Pvt. Ltd, petitioner herein, is part and branch of M/s. Micro Labs Limited, No. 7/10, Kumara Krupa Road, Bangalore. It has taken the view that there is functional integrality between the two units and it is controlled by the same person and its employees are common. The fundamental defect committed by the authority is that no notice was issued to M/s. Micro Labs Limited, No. 7/10, Kumara Krupa Road, Bangalore, before the authorities came to the conclusion that there is functional integrality between the two units and that the petitioner is a branch of the said institution. The order passed by the



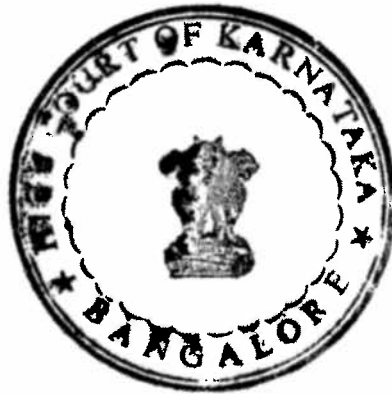
the respondents under Section 7-A of the Act has caused financial implication as well to M/s. Micro Labs Limited, No. 7/10, Kumara Krupa Road, Bangalore and that any order adversely affecting the said institution which will have financial implication, ought to have been issued only after hearing the said institution. Any order passed without complying with the requirement thereof is violation of the principles of natural justice. Such order will not benefit the workers as well. If the said institution takes the stand that they are not bound by the orders and they are independent of M/s. Micro Nova Pharmaceuticals, Pvt. Ltd., Bangalore, necessarily such a contention will go against the very intention of the order passed. Therefore, any adjudication as to whether M/s. Micro Nova Pharmaceuticals Pvt. Ltd., Bangalore, and M/s. Micro Labs Limited, No. 7/10, Kumara Krupa Road, Bangalore, are one and the same is to be done only after hearing both the companies. Any decision made thereof without complying with the requirement of the principles of natural justice would be invalid. On this short ground, the impugned order cannot be sustained



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sustained. I, therefore, set aside Annexure - A order. The enquiry initiated by the respondents with respect to coverage under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act against the petitioner will be started afresh and completed after issue of notice to M/s. Micro Labs Limited, No. 7/10, Kumara Krupa Road, Bangalore, and after hearing both the Companies. A final order in this behalf may be made within a period of 3 months from the date of receipt of this order. The writ petition is disposed of as above.

Sd/-  
JUDGE



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